

1 A I don't recall.

2 Q Would this be reflected in the minutes that the
- 3 executive committee maintains during --

4 A I'm sorry?

5 Q Do you have occasion when you get together with
6 the executive committee to review the minutes of the prior
7 meeting?

8 A I haven't ever asked to, no.

9 Q You never asked to review the minutes of the prior
10 meetings **of** the executive committee?

11 A No.

12 Q Okay. Are minutes taken of the board meetings?

13 A You mean the partnership meetings?
--

14 Q Yes.

15 A Yes.

16 Q Partnership meetings.

17 A Yes.

18 Q Are they distributed prior to meeting via e-mail
19 or postal?

20 JUDGE STEINBERG: You said prior. If they are
21 taken at the meeting, they can't be distributed before they
22 are taken.

23 MR. DE JESUS: I'm sorry.

24 BY MR. DE JESUS:

25 Q Are they distributed prior to your meetings? This

1 is an ongoing process. Let me rephrase that question.

2 You have an executive committee meeting, and you
3 have a partnership meeting.

4 A Right.

5 Q Let's start with the partnership meetings.

6 A Right.

7 Q At the partnership meetings, are there minutes
8 that you have access to of the prior meetings?

9 A Yes.

10 Q Okay. So someone takes minutes, correct?

11 A Yes.

12 Q Who is the secretary that would take the minutes?

13 A We don't have a designated person, I don't
14 believe, and I don't know who, but because I'm always on a
15 conference call because I am **so** far away, so I don't know
16 exactly who does that.

17 Q But based on that conference call --

18 A Yeah.

19 Q -- do you have occasion to review minutes?

20 A Do I have occasion to?

21 Q Do you have access to minutes? Do they give you
22 minutes?

23 A Yeah. Yeah.

24 Q Okay. So you do get minutes?

25 A I get minutes.

1 Q And you review the minutes?

2 A No. That's an honest answer. No.

3 Q Now the executive committee meetings.

4 A Yes.

5 Q Do you review the executive committee minute
6 meetings?

7 A No, I do not.

8 Q No?

9 A No.

10 Q Now what is your total investment in Alee? How
11 much did you invest?

12 A Originally, it was \$10,000. There have been a
13 series of capital calls. I have -- I don't know how much I
14 have in there now, to be honest with you.

15 Q Okay. So your original investment was \$10,000?

16 A Yes.

17 Q And how many capital calls were there?

18 A Approximately 14.

19 Q Okay. And did you contribute in each one of those
20 14?

21 A Yes.

22 Q And what was the amount that was requested in each
23 of the capital calls?

24 A It varied.

25 Q Approximately?

1 A Depending on -- oh, I don't know. Maybe a
2 thousand, maybe a couple hundred.

3 Q **So** is it your testimony that you have no idea how
4 much you have contributed to Alee? You have no idea how --

5 A Sadly, I have no idea.

6 Q How much have you gotten out of it?

7 A Nothing.

8 Q You have made no -- you haven't gotten any checks
9 or anything?

10 A We have gotten distributions, but that has covered
11 my tax liability, so it was a pass-through.

12 Q So is it your testimony -- how much?

13 A I don't know again.

14 Q Okay. So are you saying that you realized no
15 profit in this deal at all?

16 A Define profit, I mean.

17 Q Profit is anything over the amount that you have
18 put in in your investment. So if you put in 20,000, let's
19 say you put in 40,000, and if -- okay, you have put in
20 10,000.

21 A Um-hmm.

22 Q How much over that have you take out of your --

23 A See, now, here again, I have shown profit on
24 paper, but I haven't realized any money.

25 Q Okay, how much --

1 JUDGE STEINBERG: You show profit on paper and you
2 get a K-1 and that shows a profit.

- 3 THE WITNESS: Um-hmm.

4 JUDGE STEINBERG: And you report that profit to
5 the IRS?

6 THE WITNESS: Yes.

7 JUDGE STEINBERG: Do you tell the IRS it's a paper
8 profit and I'm not paying any tax on it?

9 THE WITNESS: Oh, no, no.

10 JUDGE STEINBERG: So it's a profit.

11 THE WITNESS: Okay. All right. Yeah.

12 JUDGE STEINBERG: So that's what we want to know.
13 How often do you get distribution checks?

- 14 THE WITNESS: Quarterly, so I can make my
15 quarterly tax payment.

16 JUDGE STEINBERG: Okay.

17 BY MR. DE JESUS:

18 Q Generally, when you get these quarterly, how much
19 are the checks for?

20 A Approximately \$18,000.

21 JUDGE STEINBERG: A quarter?

22 BY MR. DE JESUS:

23 Q Eighteen thousand a quarter?

- 24 A No, no, that's incorrect. Eight to 10 thousand
25 dollars

1 Q A quarter?

2 A A quarter.

3 Q How many quarters has it been since you have been
4 receiving these checks? How many years has it been?

5 A Years? It hasn't been years. It's been -- well,
6 yes, it has. It's been -- it's been a year and a half; six
7 quarters maybe.

8 Q Six quarters?

9 A Six quarters.

10 JUDGE STEINBERG: It's a year and a half.

11 THE WITNESS: Yeah, that's about right.

12 BY MR. DE JESUS:

13 Q Let me ask you, when was the very first time you
14 got a check from Alee?

15 A Here again, I am going to have to guess. I'm
16 going to say April of 2001.

17 Q Okay.

18 (Pause.)

19 JUDGE STEINBERG: The checks didn't start coming
20 four or five years ago?

21 THE WITNESS: No.

22 JUDGE STEINBERG: Was the first check for a lot
23 more than the rest of the checks?

24 THE WITNESS: Yes.

25 JUDGE STEINBERG: Do you remember that?

1 THE WITNESS: Yes.

2 BY MR. DE JESUS:

- 3 Q And how much was it for, if you recall?

4 A The first check?

5 Q Yes.

6 A Approximately \$20,000.

7 Q \$20,000, the first check, okay.

8 MR. DE JESUS: Your Honor, I have no further
9 questions of this witness.

10 JUDGE STEINBERG: The first check is about --
11 let's say it started a year and a half. So you have gotten
12 six checks. So you got 20,000 bucks, then maybe 9,000 bucks
13 five other times?

14 THE WITNESS: Yeah.

15 JUDGE STEINBERG: Okay. So I guess we can all do
16 the math, but that's considerably more than \$10,000 of your
17 initial investment.

18 THE WITNESS: Right.

19 JUDGE STEINBERG: Is that right?

20 THE WITNESS: Yes.

21 JUDGE STEINBERG: And if the capital calls, if
22 there were about 14 capital calls, and let's say -- were the
23 capital calls about \$1,000 or less or more? You give me a
24 number.

25 THE WITNESS: It's probably higher than that. I

1 would say on an average it was probably 2,000.

2 JUDGE STEINBERG: Okay, so that's \$28,000, and so
3 \$28,000, and you said that you put in several times more
4 than what they asked for.

5 THE WITNESS: Yes.

6 JUDGE STEINBERG: And you picked up additional
7 interest; is that correct? You picked up additional
8 percent, ownership percentage?

9 THE WITNESS: Yes, I did.

10 JUDGE STEINBERG: Now why did you think it was a
11 good idea to invest more money in this when you -- you know,
12 let's say the capital call was for \$1,000 and you put in --
13 I'm making these numbers up -- 1100 - 1500 or whatever, why
14 did you think it was a good idea to give Alee more money
15 than they asked for?

16 THE WITNESS: Here again, I felt that we were
17 right, and that we would ultimately win.

18 JUDGE STEINBERG: I mean, is the bottom line that
19 you gave Alee more money than they asked for because you
20 would get a higher percentage because you thought it was a
21 good investment?

22 THE WITNESS: Yes.

23 JUDGE STEINBERG: And that you would ultimately
24 receive more money from Alee than you put in?

25 THE WITNESS: Yes.

1 JUDGE STEINBERG: Okay. Let's break for lunch,
2 and then we will come back with Mr. Quianzon. Do you want
3 to go until two or 2:10? It's up to you guys. Let's go off
4 the record.

5 (Whereupon, at 1:00 p.m., the hearing was
6 recessed, to resume at 2:10 p.m., this same day, Tuesday
7 October 22, 2002.)

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A F T E R N O O N S E S S I O N

(2:10 p.m.)

JUDGE STEINBERG: Let's go on the record.

Mr. Quianzon.

Whereupon,

VINCENT DI COSTANZO

having previously duly sworn, was recalled as a witness and was examined and testified further as follows:

CROSS-EXAMINATION (CONT'D)

BY MR. QUIANZON:

Q Good afternoon, Mr. Di Costanzo.

A Good afternoon.

Q My name is Raymond Quianzon, and this is Don Evans. We are with the law firm of Fletcher, Healt & Hildreth, and we represent the intervenors in this case, Ranger Cellular and Miller Communications, Inc. I am just going to ask you a few questions to follow up pretty much on the thorough job that Mr. De Jesus did earlier.

I see in your statement there that you have a 4.203 partnership interest in Alee Cellular?

A Yes.

Q What type of partnership interest is that? Is it general, limited?

A I'm sorry?

Q Is that a general or limited partnership interest?

1 A I don't understand. It's a general partnership.

2 So yeah, it would be general partnership.

- 3 Q Okay, so you are a 4.203 percent general partner
4 in the partnership?

5 A Yes.

6 Q All right. Are you a U.S. citizen?

7 A Yeah.

8 Q Have you ever disclosed this to the partnership?

9 A Yes.

10 Q And when would that have been?

11 A Well, it was on my original application where I
12 was asked, but that wasn't asked by Alee, that was asked by
13 TCC. I was asked by Alee, as I had mentioned earlier, in a
- 14 recent questionnaire that was some time this year. I don't
15 recall when it was.

16 Q Just to clarify, TCC is the cellular corporation?

17 A Yes.

18 Q Cellular company?

19 A The cellular corporation, I believe it was.

20 Q It was one of the organizations that got this
21 started?

22 A Yes.

23 Q All right. And then you said there was something
- 24 more recently that asked your citizenship?

25 A Yes, from Alee.

1 Q So the partnership had sent you something or
2 called you?

3 A It was a -- it was a mailing, and it had a couple
4 of questions on it.

5 Q Okay. Do you have any recollection **of** when that
6 mailing was sent?

7 A No. I was asked that earlier and I don't.

8 Q Okay.

9 A This year, I can tell you that much, but I don't
10 recall exactly when.

11 Q Okay. Have you ever been convicted **of** a felony?

12 A No, sir.

13 Q And have you had an opportunity to tell the
14 partnership that --

15 A Yes.

16 Q -- you have not committed a felony?

17 A I'm sorry?

18 Q Have you had an opportunity to tell the
19 partnership that you have not committed a felony?

20 A Yes.

21 Q And when was there?

22 A Here again on that recent questionnaire.

23 Q And then initially too, do you recall?

24 A The cellular corporation.

25 Q So similar to the questions I just asked you

1 about, the citizenship and --

2 A Yes.

3 Q Okay. Would you mind telling me a bit about your
4 job here, your job down in Virginia Beach?

5 A Yes. I work for a company called Panalpina. We
6 are a freight and forwarders and customs brokers. We move
7 import and export cargo, ocean freight, and air freight, and
8 offer integrated logistics, international logistics.

9 Q And what are your specific duties with Panalpina?

10 A I am the branch manager of the Norfolk, Virginia
11 office, responsible for the daily operation.

12 Q Which includes reviewing manifests or is that --

13 A No, no. Ours is customs law, customs procedures
14 such as entry of merchandise, issue of bills of lading, the
15 clearance of cargo, classification of cargo that come out of
16 the description classification.

17 Q And I noticed in your direct testimony that you
18 have certain authorities or some type of license from the
19 Treasury Department?

20 A That's correct.

21 Q And United States Customs?

22 A I am licensed as a customs housing broker. The
23 license is issued by Customs but by the commissioner of
24 customs.

25 Q And that would be the only license that you have

1 in relation to your job?

2 A Yes, sir.

- 3 Q And does that one require a listing **of** whether you
4 have -- I'm sorry. Strike that.

5 Is one of the requirements for that license a
6 showing of good character?

7 A Yes.

8 Q Now would your involvement in a partnership where
9 another federal agency had found lack of candor have any
10 effect on that license with the Treasury Department?

11 A I don't believe so.

12 Q Is that something that you have reported to the
13 Treasury Department, that you are a partner in a
- 14 partnership?

15 A No, sir. I was licensed prior to my involvement
16 and they are only interested in whether or not I am a felon.

17 Q Okay. And you have a continuing obligation to the
18 Treasury Department, for instance, if you had committed a
19 felony, would you have had to report that to the Treasury
20 Department?

21 A Yes.

22 Q Okay. And do you have a continuing obligation to
23 report any other items to the Treasury Department?

- 24 A No.

25 Q And you have not at this point reported any other

1 items to the Treasury Department?

2 A No, sir.

- 3 Q All right. Excellent.

4 Your 4.2 percent interest, or 4.203 percent
5 interest I wanted to talk about just briefly. You said your
6 initial investment was how much?

7 A \$10,000.

8 Q And then roughly you had 14 capital calls for a
9 total of --

10 A I don't know. What did we say? Between 5,000, I
11 don't know.

12 Q So a total overall, we're just speculating at
13 35,000?

- 14 A Thirty-five perhaps.

15 Q And you have had -- to the best of your
16 recollection -- six quarterly payments that have come to
17 you?

18 A That's correct.

19 Q And they have equaled or exceeded 35,000?

20 A Yes.

21 Q Okay. What do you value your investment at, at
22 this time?

23 A I find it hard to put any kind of a value on it.

- 24 Q Well, just ball park. If somebody, if you could,
25 if someone asked you on a financial statement, say you take

1 a mortgage out on your house and you had a four percent
2 interest in this partnership, what would you value it at?

- 3 A I'm sorry, I don't know. I wouldn't know how to
4 approximate it.

5 JUDGE STEINBERG: Do you have a house?

6 THE WITNESS: Yeah.

7 JUDGE STEINBERG: Do you have a mortgage?

8 THE WITNESS: Yes, sir.

9 JUDGE STEINBERG: And was it taken out before or
10 after your involvement?

11 THE WITNESS: It was after.

12 JUDGE STEINBERG: Did you have to fill out a
13 financial statements to get the bank loan?

- 14 THE WITNESS: Did I?

15 JUDGE STEINBERG: The loan, because it might not
16 have come from a bank, the loan, the whole loan.

17 THE WITNESS: Did I have to do what? I'm sorry.

18 THE WITNESS: Fill out a financial statement.

19 THE WITNESS: I don't recall. I don't recall
20 because I have owned several properties.

21 BY MR. QUIANZON:

22 Q When you applied for your Treasury Department, do
23 you have to list your assets?

- 24 A No.

25 Q And there is nothing recently -- do you recall

1 anything recently where you have had to list your assets?

2 A No.

3 Q Such as a loan application?

4 A To Treasury?

5 Q No, I'm sorry. I general, I apologize for that.

6 Any application in general like a mortgage, a loan

7 application, a credit card application where you would have

8 to list --

9 A No.

10 Q -- your assets?

11 A Ugh-huh.

12 Q Okay.

13 JUDGE STEINBERG: So the "ugh-huh" was a no?

14 THE WITNESS: No. I'm sorry.

15 MR. QUIANZON: Thank you. I just have a couple of
16 brief questions then with regards to specific events.

17 BY MR. QUIANZON:

18 Q You mentioned earlier that there was a meeting, I
19 guess, where you discussed the fact there was a alien in the
20 partnership?

21 A Yes.

22 Q Can you describe where this meeting occurred and
23 what occurred?

24 A That was at Allan Kane's office probably back in,
25 I don't want to speculate, but it was in '88, 1988.

1 JUDGE STEINBERG: Was it very early on in the
2 partnership?

- 3 THE WITNESS: Oh, yeah, yeah.

4 BY MR. QUIANZON:

5 Q And Allan Kane's office is where, do you recall?

6 A Cranford, New Jersey, I believe.

7 Q Cranford.

8 Were you living in New Millford at the time?

9 A Yes, I was.

10 Q All right. And how many of the other partners
11 were there in the New Jersey meeting?

12 A I don't recall.

13 Q The Cranford, New Jersey meeting in Allan Kane's
14 office?

15 A I don't recall.

16 Q And at this point you said that -- I'm sorry,
17 strike that.

18 You and at least several other partners had gotten
19 together at Allan Kane's office to discuss the alien issue,
20 or issues in general?

21 A No, just issues in general.

22 Q All right. And at that point someone did raise
23 the fact that there was a problem with an alien?

- 24 A I believe it was put forward as we had an alien
25 problem. It was almost as if it were past tense. We had an

1 alien problem, but it was taken care of.

2 Q It wasn't necessarily a question anyone had
- 3 raised. You had -- it wasn't a question anyone had raised
4 about the alien?

5 A No.

6 Q A statement was made that there was an alien
7 problem?

8 A Yes.

9 Q And as you all sat in the office in Cranford, New
10 Jersey, you were told the problem had been taken care of?

11 A Yes.

12 Q Was there any more inquiry into that?

13 A I don't recall.

- 14 JUDGE STEINBERG: Did you ask any questions?

15 THE WITNESS: Did I ask any question? No.

16 BY MR. QUIANZON:

17 Q Did you inquire what taken care of meant?

18 A Did I? No.

19 Q Did anyone inquire what taken care of meant?

20 A I don't recall.

21 Q Did you inquire who of the partners there or who
22 of your few partners was the alien?

23 A I know it was asked, and I don't know by whom.

- 24 Q Was it answered, the question about the alien
25 answered?

1 A No. Well, it was answered, but the answer was
2 along the lines of it doesn't matter who, to the best of my
- 3 recollection, along those lines.

4 Q Did you assume that whoever the partner was was
5 not actually in the room at that time?

6 A Did we assume that?

7 JUDGE STEINBERG: Did you assume that?

8 THE WITNESS: Did I assume that?

9 BY MR. QUIANZON:

10 Q Did you assume? I'm sorry.

11 A I don't --

12 Q Is it possible that the partner that had the alien
13 problem was in that room in Cranford, New Jersey with you?

14 A I would think not.

15 JUDGE STEINBERG: But you don't know?

16 THE WITNESS: I don't know.

17 MR. QUIANZON: Okay.

18 BY MR. QUIANZON:

19 Q And who was -- Kane had, or the meeting was in
20 Allan Kane's office. Did you have an executive committee at
21 that time on the partnership?

22 A No. This was our first meeting as a partnership.

23 Q And did you form an executive committee then at
- 24 that first meeting?

25 A No. No.

1 Q Did you know when the executive committee was
2 formed, or do you recall when the executive committee was
- 3 formed?

4 A Do I recall exactly? No, I do not.

5 Q How many of the folks in this meeting at Cranford
6 did you know? How many of the other partners in Cranford?

7 A I didn't know any of these people.

8 Q So it was, in essence, a room full of strangers?

9 A Yes. •

10 Q And how had you been introduced to the
11 partnership?

12 A Through my financial planner at the time.

13 Q And was he or she your financial planner in the
14 room with you?

15 A No.

16 Q Were they a participant in this partnership?

17 A No.

18 Q And you knew none of the other partners?

19 A No.

20 Q Did you know Mr. Sharifan?

21 A No.

22 Q When did you first learn of Mr. Sharifan, or who
23 he was?

24 A You know, I don't recall. It was well after Allan
25 Kane and the others were released. It was well after that.

1 And when I -- yeah, it was well after that.

2 Q If you wouldn't mind, I would like to ask you

- 3 another question about another meeting, the meeting where
4 you adopt -- you may have seen earlier, I believe it's EB
5 Exhibit 16 and 17, which are the management agreement and
6 the Metro Mobile allonge, or I'm not sure what term we are
7 using, the Metro Mobile document that accompanied that.

8 Do you recall whether or not you attended that
9 actual meeting when that was adopted by the partnership?

10 JUDGE STEINBERG: I don't know that there was a
11 foundation that it was done at a meeting **or** that it was -- I
12 don't remember, frankly, so you might want to lay a
13 foundation for the background of those two documents.

14 MR. QUIANZON: Thank you.

15 BY MR. QUIANZON:

16 Q The Exhibit 16, EB Exhibit 16, which was provided
17 to you earlier, do you recall how --

18 JUDGE STEINBERG: He doesn't have that in front **of**
19 him now.

20 MS. LANCASTER: He's got it right there.

21 THE WITNESS: Do I?

22 JUDGE STEINBERG: Oh, the whole book is there?

23 MS. LANCASTER: Yes.

- 24 JUDGE STEINBERG: Okay, I didn't know that.

25 MR. QUIANZON: Yes.

1 BY MR. QUIANZON:

2 Q If you would turn to tab 16 of that book, it
- should say "Management Agreement" at the top?

4 A Mm-hmm.

5 Q That was introduced earlier by the Enforcement
6 Bureau?

7 A Yes.

8 Q Do you recall how the partners signed off on this
9 or how the partners agreed to adopt this management
10 agreement?

11 A No, sir.

12 Q If you turn the tab to the next tab, Enforcement
13 Bureau tab Exhibit 17, do you recall having seen this
- 14 before?

15 A I don't.

16 Q Just a few more questions.

17 When is the last time you met with some of your
18 other partners?

19 A It was by telephone, within, I think, 90 days.

20 Q There **was** a partnership meeting within the last 90
21 days?

22 A Conference call.

23 Q Conference call, I'm sorry.

24 A Yes, sir.

25 Q And the full spectrum of the partners were able to

1 join?

2 A We had a quorum

- 3 Q Excellent. When did you last -- have you met with
4 any of the partners individually recently?

5 A No, sir.

6 Q In preparation for this hearing today, did you
7 meet with any of the partners?

8 A Yesterday in David Hill's office.

9 Q You met at David Hill's office yesterday with the
10 other partners?

11 A With Becky Jo and Terry and Bob Bernstein. It
12 actually wasn't a -- I don't know. We were all there.

13 Q Okay. You saw them all at the meeting?

- 14 A Yeah, but we didn't conduct any business, but we
15 were all there together.

16 Q Was Mr. Malanga there at the meeting yesterday?

17 A Yes.

18 Q Or whenever it was?

19 A Yeah,

20 Q And Exhibit 17, did you see this yesterday?

21 A No.

22 Q Okay, just briefly, could you tell me what your
23 understanding of the FCC's decision in the Algreg case was?

- 24 A I'm sorry?

25 Q Your understanding of what the FCC's decision in

1 the Algreg case was?

2 MR. HILL: This has been asked and answered.

- 3 JUDGE STEINBERG: I don't remember if it has. I
4 mean, I just don't know.

5 BY MR. QUIANZON:

6 Q I just need a brief -- your understanding of what
7 happened with the New Mexico license in the Algreg.

8 JUDGE STEINBERG: Your own understanding.

9 THE WITNESS: It is my understanding that the FCC
10 feels that our partnership lacked candor in our presenting
11 of facts, in a nutshell.

12 BY MR. QUIANZON:

- 13 Q All right, referring to the same reference made by
14 Mr. De Jesus earlier in the hearing designation order for
15 this case released February 22nd by the FCC, the Federal
16 Communications Commission states -- found that "failure to
17 fully disclose the facts involving Sharifan's participation
18 in a timely manner, together with Bernstein's dubious
19 testimony on this matter, significantly undercuts the claim
20 that voluntary reporting of these matters belies any intent
21 to deceive the Commission."

22 Are you aware of any dubious testimony that was
23 given?

- 24 A Dubious.

25 Q By Mr. Bernstein?